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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
2003P16866

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Application Number	Filed
10/590,138	August 22, 2006

First Named Inventor
Sebastian Obermanns

Art Unit	Examiner
2617	Amanuel Lebassi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 43,248.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Mark P. Weichselbaum/
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954-925-1100
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August 23, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant believes the Examiner has made several clear errors in evaluating the teaching of U.S. Publication No. 2004/0043782 to Gupta and in attempting to use the teaching of Gupta to satisfy some of the limitations in claim 10.

Claim 10 includes a step of: "thereby operating the first central control device to control the transmission channels available to the first radio coverage area, both for transmitting data between the first central control device and the intermediate station and for transmitting data between the intermediate station and the second central control device."

On page 3, line 14 through page 4, line 1 of the Office action dated June 30, 2010, the Examiner states, "*Gupta discusses where a relay or intermediate device is configured to relay a plurality of messages associated with a plurality of other wireless communication devices along a plurality of adaptive relay paths therefore transmitting data between the intermediate station and the second central control device. Therefore, Gupta is showing the limitation of "operating the first central control device to control the transmission channels available to the first radio coverage area, both for transmitting data between the first central control device and the intermediate station and for transmitting data between the intermediate station and the second central control device*".

Applicant believes the Examiner has made a clear error in using the cited teaching of Gupta to support the assertion that **Gupta** teaches that the **first central control device** operates (=controls) the second central control device with respect to transmission channels. The only thing one of ordinary skill in the art is taught is that a path between the relay and the second central control device may be set-up **somehow**, because several relay paths exist. However, this does not in any way show **that messages or any other signals originating from the first central station are operating the second central control station in order to control which transmission channels are used.** Furthermore "*relay paths*" is a term in communication technology, which implies that data originating from a source is routed from mobile station to mobile station till it reaches the destination. Hence the cited parts of **Gupta** only disclose what happens in a higher communications layer (namely the "network layer"). This is a layer other than the one addressed by claim 10, since "transmission channels" is a term relating to the "physical layer".

Since Gupta does not teach the step of claim 10 that has been copied above, the combination of U.S. Publication No. 2004/0043782 to Gupta and U.S. Patent No. 6,987,770 to Yonge, III could not have suggested the invention as defined by claim 10.

Claim 10 also includes a step of: "operating in each of the first and second radio coverage areas mobile communication devices forming intermediate

stations for forwarding to the second radio coverage area data originating from the first radio coverage area".

On page 3, lines 9-14 of the Office action dated June 30, 2010, the Examiner states, "*Gupta discusses relay stations 125 c and 125 b which forward signals to the neighbouring coverage areas. Therefore, Gupta is showing the limitation of "operating in each of the first and second radio coverage areas mobile communication devices forming intermediate stations for forwarding to the second radio coverage area data originating from the first radio coverage area*".

Applicant believes the Examiner has made a clear error in using the cited teaching of Gupta to support the assertion that the step of claim 10, which is copied immediately above, is taught.

Applicant believes it should be clear that the term "intermediate stations" means that such a station is at the same time part of both coverage areas. Applicant believes this is **essential** because only if this is guaranteed the second control device can be operated via the intermediate station by the first central control device, if data is forwarded. However, Fig. 1 of Gupta shows that the communication devices 125a and 125b are only part of one coverage area, namely cell 101.

Applicant believes that since Gupta does not teach the additional step of claim 10 that has been copied immediately above, the combination of U.S.

Publication No. 2004/0043782 to Gupta and U.S. Patent No. 6,987,770 to Yonge, III could not have suggested the invention as defined by claim 10.